



Senate

General Assembly

File No. 176

February Session, 2000

Substitute Senate Bill No. 491

Senate, March 22, 2000

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Workers' Compensation Commissioners And Employer-Sponsored Workers' Compensation Plans.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 31-279 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (d) Each plan established under subsection (c) of this section shall be
4 submitted to the chairman for [his] approval at least one hundred
5 twenty days before the proposed effective date of the plan and each
6 approved plan, along with any proposed changes [therein] in the plan,
7 shall be resubmitted to the chairman every two years thereafter for
8 reapproval. The chairman shall approve or disapprove such plans on
9 the basis of standards established by the chairman in consultation with
10 a medical advisory panel appointed by the chairman. Such standards
11 shall include, but not be limited to: (1) The ability of the plan to
12 provide all medical and health care services that may be required

13 under this chapter in a manner that is timely, effective and convenient
14 for the employees; (2) the inclusion in the plan of all categories of
15 medical service and of an adequate number of providers of each type
16 of medical service in accessible locations to ensure that employees are
17 given an adequate choice of providers, including at least one
18 occupational health clinic and one auxiliary occupational health clinic,
19 as those terms are defined in section 31-396; (3) the provision in the
20 plan for appropriate financial incentives to reduce service costs and
21 utilization without a reduction in the quality of service; (4) the
22 inclusion in the plan of fee screening, peer review, service utilization
23 review and dispute resolution procedures designed to prevent
24 inappropriate or excessive treatment; and (5) the inclusion in the plan
25 of a procedure by which information on medical and health care
26 service costs and utilization will be reported to the chairman in order
27 for him to determine the effectiveness of the plan.

28 Sec. 2. Subsection (b) of section 31-280 of the general statutes is
29 repealed and the following is substituted in lieu thereof:

30 (b) The chairman of the Workers' Compensation Commission shall:

31 (1) Establish workers' compensation districts and district offices
32 within the state, assign compensation commissioners to the districts to
33 hear all matters arising under this chapter within the districts and may
34 reassign compensation commissioners once each year, except that
35 when there is a vacancy, illness or other emergency, or when
36 unexpected caseload increases require, the chairman may reassign
37 compensation commissioners more than once each year;

38 (2) Adopt such rules as the chairman, in consultation with the
39 advisory board, deems necessary for the conduct of the internal affairs
40 of the Workers' Compensation Commission;

41 (3) Adopt regulations, in consultation with the advisory board and
42 in accordance with the provisions of chapter 54, to carry out [his] the

43 chairman's responsibilities under this chapter;

44 (4) Prepare and adopt an annual budget and plan of operation in
45 consultation with the advisory board;

46 (5) Prepare and submit an annual report to the Governor and the
47 General Assembly;

48 (6) Allocate the resources of the commission to carry out the
49 purposes of this chapter;

50 (7) Establish an organizational structure and such divisions for the
51 commission, consistent with this chapter, as the chairman deems
52 necessary for the efficient and prompt operation of the commission;

53 (8) Establish policy for all matters over which the commission has
54 jurisdiction, including rehabilitation, education, statistical support and
55 administrative appeals;

56 (9) Appoint such supplementary advisory panels as the chairman
57 deems necessary and helpful;

58 (10) Establish, in consultation with the advisory board, (A) an
59 approved list of practicing physicians, surgeons, podiatrists,
60 optometrists and dentists from which an injured employee shall
61 choose for examination and treatment under the provisions of this
62 chapter, which shall include, but not be limited to, classifications of
63 approved practitioners by specialty, and (B) standards for the approval
64 and removal of physicians, surgeons, podiatrists, optometrists and
65 dentists from the list by the chairman;

66 (11) (A) Establish standards in consultation with the advisory board
67 for approving all fees for services rendered under this chapter by
68 attorneys, physicians, surgeons, podiatrists, optometrists, dentists and
69 other persons;

70 (B) In consultation with employers, their insurance carriers, union
71 representatives, physicians and third-party reimbursement
72 organizations establish, not later than October 1, 1993, and publish
73 annually thereafter, a fee schedule setting the fees payable by an
74 employer or its insurance carrier for services rendered under this
75 chapter by an approved physician, surgeon, podiatrist, optometrist or
76 dentist, provided the fee schedule shall not apply to services rendered
77 to a claimant who is participating in an employer's managed care plan
78 pursuant to section 31-279. The fee schedule shall limit the annual
79 growth in total medical fees to the annual percentage increase in the
80 consumer price index for all urban workers. Payment of the
81 established fees by the employer or its insurance carrier shall
82 constitute payment in full to the practitioner, and the practitioner may
83 not recover any additional amount from the claimant to whom services
84 have been rendered;

85 (C) Issue, not later than October 1, 1993, and publish annually
86 thereafter, guidelines for the maximum fees payable by a claimant for
87 any legal services rendered by an attorney in connection with the
88 provisions of this chapter, which fees shall be approved in accordance
89 with the standards established by the chairman pursuant to
90 subparagraph (A) of this subdivision;

91 (12) Approve applications for employer-sponsored medical care
92 plans, based on standards developed in consultation with a medical
93 advisory panel as provided in section 31-279;

94 (13) Establish procedures for the hiring, dismissing or otherwise
95 disciplining and promoting employees of the commission, subject
96 where appropriate to the provisions of chapter 67;

97 (14) Control the hearing calendars of the compensation
98 commissioners, and if necessary, preside over informal hearings in
99 regard to compensation under the provisions of this chapter in order to
100 facilitate the timely and efficient processing of cases;

101 (15) Enter into contracts with consultants and such other persons as
102 necessary for the proper functioning of the commission;

103 (16) Direct and supervise all administrative affairs of the
104 commission;

105 (17) Keep and maintain a record of all advisory board proceedings;

106 (18) Assign and reassign a district manager and other staff to each of
107 the commission's district offices;

108 (19) Collect and analyze statistical data concerning the
109 administration of the Workers' Compensation Commission;

110 (20) Direct and supervise the implementation of a uniform case
111 filing and processing system in each of the district offices that will
112 include, but not be limited to, the ability to provide data on the
113 number of cases having multiple hearings, the number of postponed
114 hearings and hearing schedules for each district office;

115 (21) Establish staff development, training and education programs
116 designed to improve the quality of service provided by the
117 commission, including, but not limited to, a program to train district
118 office staff in the screening of hearing requests;

119 (22) Develop standard forms for requesting hearings and standard
120 policies regarding limits on the number of informal hearings that will
121 be allowed under this chapter, and limits on the number of
122 postponements that will be permitted before a formal hearing is held
123 pursuant to section 31-297;

124 (23) Develop guidelines for expediting disputed cases;

125 (24) Establish an ongoing training program, in consultation with the
126 advisory board, designed to assist the commissioners in the fulfillment
127 of their duties pursuant to the provisions of section 31-278, which

128 program shall include instruction in the following areas: Discovery,
129 evidence, statutory interpretation, medical terminology, legal decision
130 writing and the purpose and procedures of informal and formal
131 hearings;

132 [(25) Evaluate, in conjunction with the advisory board, the
133 performance of each commissioner biannually and, notwithstanding
134 the provisions of subsection (b) of section 1-210 and chapter 55, make
135 the performance evaluation of any commissioner available only to the
136 Governor, the members of the joint standing committee on the
137 judiciary and the respective commissioner prior to any public hearing
138 on the reappointment of any such commissioner. Any information
139 disclosed to such persons shall be used by such persons only for the
140 purpose for which it was given and shall not be disclosed to any other
141 person;]

142 [(26)] (25) (A) In consultation with insurers and practitioners,
143 establish not later than October 1, 1993, and publish annually
144 thereafter, practitioner billing guidelines for employers, workers'
145 compensation insurance carriers and practitioners approved by the
146 chairman pursuant to subdivision (10) of this subsection. The
147 guidelines shall include procedures for the resolution of billing
148 disputes and shall prohibit a practitioner from billing or soliciting
149 payments from a claimant for services rendered to the claimant under
150 the provisions of this chapter (i) during a payment dispute between
151 the practitioner and the employer or its workers' compensation
152 insurance carrier, or (ii) in excess of the maximum fees established
153 pursuant to subparagraph (B) of subdivision (11) of this subsection;

154 (B) In consultation with practitioners and insurers, develop not later
155 than July 1, 1994, practice protocols for reasonable and appropriate
156 treatment of a claimant under the provisions of this chapter, based on
157 the diagnosis of injury or illness. The commission shall annually
158 publish the practice protocols for use by approved practitioners,

159 employers, workers' compensation insurance carriers and
160 commissioners in evaluating the necessity and appropriateness of care
161 provided to a claimant under the provisions of this chapter;

162 (C) In consultation with practitioners and insurers, develop not later
163 than July 1, 1994, utilization review procedures for reasonable and
164 appropriate treatment of a claimant under the provisions of this
165 chapter. The chairman shall annually publish the procedures for use
166 by approved practitioners, employers, workers' compensation
167 insurance carriers and commissioners in evaluating the necessity and
168 appropriateness of care provided to a claimant under the provisions of
169 this chapter.

170 Sec. 3. Section 31-280a of the general statutes is repealed and the
171 following is substituted in lieu thereof:

172 (a) There shall be an Advisory Board of the Workers' Compensation
173 Commission to advise the chairman on matters concerning policy for
174 and the operation of the commission. The advisory board shall consist
175 of eight members, who shall be appointed by the Governor, with the
176 advice and consent of the General Assembly. Four of such members
177 shall represent employees and four shall represent employers. One of
178 such members representing employees shall be an individual who has
179 suffered an extensive disability arising out of and in the course of [his]
180 employment. One of such members representing employers shall be a
181 representative of a major general hospital in the state. On or before
182 January 1, 1992, the Governor shall appoint, and the General Assembly
183 shall confirm, such members of the advisory board as follows: Two
184 shall serve a term of four years from said date, one of whom shall
185 represent employees and one of whom shall represent employers; two
186 shall serve a term of three years from said date, one of whom shall
187 represent employees and one of whom shall represent employers; two
188 shall serve a term of two years from said date, one of whom shall
189 represent employees and one of whom shall represent employers; and

190 two shall serve a term of one year from said date, one of whom shall
191 represent employees and one of whom shall represent employers.
192 Thereafter such members shall be appointed for a term of four years
193 from January first in the year of their appointment. Any vacancy on
194 the advisory board shall be filled for the remainder of the term in the
195 same manner as the original appointment. The chairman of the
196 Workers' Compensation Commission shall serve as an ex-officio
197 member of the advisory board without the power to vote.

198 (b) The appointed members of the advisory board shall select a
199 ninth member who shall be impartial and shall serve as the chairman
200 of the advisory board. The members of the advisory board shall serve
201 without compensation. Each member shall be reimbursed for expenses
202 necessarily incurred by the member in the performance of [his] the
203 member's duties. The advisory board shall not be construed to be a
204 board or commission subject to the provisions of section 4-9a. The
205 Workers' Compensation Commission shall provide such staff as is
206 necessary for the performance of the functions and duties of the
207 advisory board.

208 (c) The advisory board shall meet at least twice in each calendar
209 quarter and at such other times as the chairman or the chairman of the
210 Workers' Compensation Commission deem necessary. All actions of
211 the advisory board shall require the affirmative vote of six members of
212 the advisory board. The advisory board may bring any matter related
213 to the operation of the workers' compensation system to the attention
214 of the chairman of the Workers' Compensation Commission. The
215 advisory board may adopt any rules of procedure that the board
216 deems necessary to carry out its duties under this chapter.

217 [(d) The advisory board shall submit its written recommendations
218 concerning the reappointment of each compensation commissioner to
219 the Governor and the General Assembly not later than three months
220 before the expiration of the term of the commissioner.]

LAB Committee Vote: Yea 9 Nay 4 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Workers' Compensation Commission

Municipal Impact: None

Explanation**State and Municipal Impact:**

The passage of this bill would result in no fiscal impact to the state or municipalities. The bill removes the requirement that the Workers' Compensation Commission Chairman evaluate Workers' Compensation Commissioners twice per year. This could result in minimal workload reduction to the Workers' Compensation Commission.

It removes the requirement that the chairman, in conjunction with the Workers' Compensation Advisory Board submit recommendations about commissioner reappointment to the governor and General Assembly at least three months before the commissioner's term expires. This has no fiscal impact because current law continues to require that the chairman's evaluations are available to the governor and the General Assembly prior to a public hearing on the commissioner's reappointment.

It also requires workers' compensation managed care plans to

include at least one occupational health clinic and one auxiliary occupational health clinic. It is anticipated that this would not result in additional costs for workers' compensation managed health care plans.

COMMENT

The Governor's recommended budget adjustments for FY 01 eliminate state funding for Occupational Health Clinics, which are currently appropriated to the Department of Labor and funded by the Workers' Compensation Administration Fund. The original FY 01 appropriation is \$674,725. sSB 123, "An Act Concerning Rehabilitation Programs for Certain Employees" allows funding for the Occupational Health Clinics to be eliminated.

OLR Bill Analysis

sSB 491

AN ACT CONCERNING WORKERS' COMPENSATION COMMISSIONERS AND EMPLOYER-SPONSORED WORKERS' COMPENSATION PLANS.**SUMMARY:**

This bill eliminates the requirement that the (1) Workers' Compensation Commission chairman evaluate workers' compensation commissioners twice each year and (2) Workers' Compensation Advisory Board submit written recommendations about commissioner reappointments to the governor and the General Assembly at least three months before the commissioner's term expires. By law, the chairman's evaluations are available to the governor, the Judiciary Committee, and the evaluated commissioner before a public hearing on the commissioner's reappointment.

The bill requires workers' compensation managed care plans to include at least one occupational health clinic and one auxiliary occupational health clinic.

EFFECTIVE DATE: October 1, 2000

BACKGROUND***Workers' Compensation Commissioners***

There are 16 commissioners. The governor nominates them and the General Assembly appoints them. They must have been in good standing with the Connecticut bar for at least five years before their nomination. They serve five-year terms and may be removed by impeachment or by the governor for cause after a public hearing.

Occupational Health Clinics

Occupational health clinics are public or private clinics that meet certain conditions and are licensed by the state to diagnose, treat, and

prevent occupational diseases. They also provide medical surveillance, data collection, and workplace exposure assessments.

COMMITTEE ACTION

Joint Favorable Substitute

Labor and Public Employees Committee

Yea 9 Nay 4